



30 Bank Street
New Britain, CT 06051
T. (860) 223-4400
F. (860) 223-4488

www.ctbar.org

TESTIMONY OF CAROLYN J. CAVOLO
CONNECTICUT BAR ASSOCIATION
REAL PROPERTY SECTION

SUPPORT

HB 5482, "AN ACT CONCERNING BUILDING PERMITS."

Planning and Development Committee
March 4, 2016

My name is Carolyn Cavolo, and I am Chair of the Connecticut Bar Association (CBA) Real Property Section Legislative Committee. With one proposed amendment to correct the meaning of the second sentence, the CBA supports the proposed Act Concerning Building Permits, which would have the effect of closing open building permits that are nine years old or older for single family and two-family properties.

First, the needed amendment: The second sentence of the bill, starting on line 10, shortened from an earlier draft, unintentionally reversed the meaning of the sentence, and should be corrected so that the sentence reads in its entirety: ***"Thereafter, no enforcement action based upon the building permit being open shall be commenced."*** The balance of that sentence in the raised bill should be deleted for clarity, as shown on the attached marked up bill.

Now, to the substance of the bill: Prior to around 1985 mortgage lenders, buyers and sellers of single and two family homes were concerned only with title to their properties, and it was not customary to search municipal records for open building permits. More recently, however, it has become part of a title search in many parts of the state to review municipal department records, including building departments, for open matters. As a result, it is not unusual to find one or more open building permits, sometimes going back many decades.

For the more recent of those, it is often just a matter of having the town inspect and close out the permits with Certificates of Occupancy, but for older permits many municipal building departments either do not have the capacity to inspect, or will not do so, and those permits remain open indefinitely. For those permits, a kind of halfway accommodation has been reached with some municipal building departments which will issue a "six-year letter" referring to C.G.S. § 29-265(a).



30 Bank Street
New Britain, CT 06051
T. (860) 223-4400
F. (860) 223-4488

www.ctbar.org

That statute essentially provides that work done on a single family dwelling more than six years ago will not prevent legal occupancy of that dwelling or require removal, alteration or abandonment. Although helpful, this statute does not close out open permits, and can also have the ironic result that work done without any permit at all is “grandfathered” under the existing statute after six years, with no open paperwork at all, while work done under a proper permit that has not been closed out still has an unresolved question mark in the town’s files, causing potential issues for subsequent owners and their mortgage lenders.

The proposed statute will provide certainty to buyers and sellers of one and two family homes, and their mortgage lenders, regarding the final closure of ancient building permits, and will eliminate the burden on all parties of searching the often arcanelly-indexed records of local building departments further back than 9 years.

Thank you for your consideration.

Proposed sub language below.



30 Bank Street
New Britain, CT 06051
T. (860) 223-4400
F. (860) 223-4488

www.ctbar.org

HB5482

AN ACT CONCERNING BUILDING PERMITS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 29-265 of the general statutes is amended by adding subsection (c) as follows (*Effective October 1, 2016*):

(NEW) (c) Nine years from the date of issuance of a building permit issued pursuant to section 29-263 for construction or alteration of a one-family dwelling, two-family dwelling, or structure located on the same parcel as a one-family dwelling or two-family dwelling, for which building permit a certificate of occupancy, as defined in the regulations adopted under section 29-252, has not been issued by the building official, such building permit shall be deemed closed by operation of law. Thereafter, no enforcement action based upon the building permit being open shall be commenced [~~prior to the expiration of the shorter of any relevant limitation period set forth elsewhere in the general statutes, or nine years from the date of issuance of the building permit~~]. No municipality or officer or employee of any municipality shall have liability with respect to any building permit closed by operation of law pursuant to this section. For the purposes of this section, "structure" has the same meaning as in the zoning regulations for the municipality in which the building permit was issued, or if undefined by such regulations, "structure" means any combination of materials that is affixed to the land, including, but not limited to, a shed, garage, sign, fence, wall, pool, patio, tennis court or deck.

This act shall take effect as follows and shall amend the following sections:		
Section	<i>October 1, 2016</i>	29-265
1		

Statement of Purpose:

To eliminate the need to obtain a "six-year letter" stating that a building permit is more than six years old once the building permit has been open for nine years.